

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

THOMAS MULLENNIEX)	
8400 Gradington Dr)	
Westerville, Ohio 43081)	
)	Case No.: 2:11-cv-1048
Plaintiff,)	
)	JURY DEMAND REQUESTED
v.)	
)	VERIFIED CIVIL COMPLAINT
)	(Unlawful Debt Collection Practices)
LAW OFFICES OF PATENAUE AND)	
FELIX)	
4545 Murphy Canyon Road, 3 rd Floor)	
San Diego, California 92123)	
Defendant.)	

VERIFIED COMPLAINT

PLAINTIFF THOMAS MULLENNIEX (Plaintiff), by his attorneys, KAHN AND ASSOCIATES, L.L.C., alleges the following against DEFENDANT LAW OFFICES OF PATENAUE AND FELIX (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy," and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
3. Because Defendant conducts business in Ohio, personal jurisdiction is established.

4. Venue is proper pursuant to 28 *U.S.C. 1391(b)(2)*.

PARTIES

5. Plaintiff is a natural person who resides in Westerville, Franklin County, Ohio and is allegedly obligated to pay a debt, and Plaintiff is a "consumer" as that term is defined by 15 *U.S.C. 1692a(3)*.
6. Pursuant to the definitions outlined in 15 *U.S.C. 1692a(1-6)*, Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
7. Defendant is a debt collector with an office in San Diego, California.
8. Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by 15 *U.S.C. § 1692a(6)*.
9. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

10. Defendant places collection calls to Plaintiff in an attempt to collect an allegedly owed debt.
11. Plaintiff receives telephone calls from Defendant at telephone number: 740-368-3228.
12. Defendant placed telephone calls to Plaintiff from telephone number: 858-244-7600.

13. Defendant called Plaintiff excessively and continuously. Plaintiff received collection calls from Defendant for a period of several months, including multiple times per day.

14. Defendant has been placing said call to Plaintiff as recent as December 2010.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

15. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt.
- b. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

WHEREFORE, Plaintiff, THOMAS MULLENNIEX, respectfully requests judgment be entered against Defendant, DEFENDANT'S LAW OFFICES OF PATENAUDE AND FELIX for the following:

16. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,

17. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*

18. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, THOMAS MULLENNIEX, requests a jury trial in this case.

RESPECTFULLY SUBMITTED,

KAHN & ASSOCIATES, L.L.C.

/s/ J. Daniel Scharville

J. DANIEL SCHARVILLE (0071132)

6200 Rockside Woods Blvd., Suite 215

Independence, Ohio 44131

Ph.: (216) 621-6101

Fax: (216) 621-6006

Attorney for the Plaintiff

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF OHIO

Plaintiff, THOMAS MULLENNIEX, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.

Pursuant to 28 U.S.C. § 1746(2), I, THOMAS MULLENNIEX, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

October 12, 2011

Date

Thomas Mullenieux

THOMAS MULLENNIEX